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TAGS: [KR](#) [MNUC](#) [MTCRE](#) [PARM](#) [PREL](#)

SUBJECT: IRAN, NORTH KOREA, AND SYRIA NONPROLIFERATION
ACT -- RESPONSE TO SOUTH KOREAN AUTHORITIES

REF: A. A. SEOUL 2076
[B. B. STATE 111822](#)
[C. C. 06STATE 187236](#)
[D. D. 06SEOUL 3993](#)
[E. E. 06SEOUL 4166](#)

Classified By: VCI DAS STEPHEN A. ELLIOTT FOR REASONS 1.4 (B),
(D), AND (H)

[1](#). (U) This is an action request. Post please see para 6.

[2](#). (S) This message responds to questions raised by MOFAT officials in response to the October 22 notification of the imposition of sanctions on Yolin Tech, Inc, Ltd. under the Iran, North Korea, and Syria Nonproliferation Act (INKSNA) (Refs A-B). Please draw from the talking points in paragraph six. Talking points may be left as a non-paper.

[3](#). (S) Background. The sanctions imposed on Yolin Tech derive from the May 2006 event (ref C) and do not reflect any other activity by Yolin. The circumstances of the May 2006 event, the subsequent exchanges between the U.S. and Korean Governments about the event, and the actions taken by the Korean Government against Yolin (refs C-E) were considered during the sanctions decision process. INKSNA is both comprehensive in that it covers many varieties of exports (missile, chemical, biological, conventional) and global in scope. The volume of cases and attendant classification issues account for the delayed decision process.

[4](#). (S) Background (cont,d). Termination of sanctions imposed under INKSNA is possible. The Department's goal in agreeing to terminate sanctions is to secure concrete assurances that there will be no recurrence of any activity sanctionable under INKSNA. INKSNA allows a determination to exempt foreign persons from sanctions if "the government with primary jurisdiction over the person has imposed meaningful penalties on that person on account of the transfer of goods, services, or technology..." covered by INKSNA. There is no definition of meaningful penalties in INKSNA but the Department assesses that penalties should be such that there will be no recurrence of any sanctionable activity. With regards to this case, ROKG reported that it took criminal action against Yolin Tech (a small, one-man front company operation), convicted the company owner, but suspended the sentence imposed. The lack of a "meaningful penalty" in this case was considered in the sanctions decision.

[5](#). (S) Background (cont,d). INKSNA sanctions have been terminated early under certain circumstances. In a recent case, after an extended negotiation directly with a sanctioned entity, the Department established a high standard to justify termination of sanctions that consists of four elements: 1) cessation of all dealings with Iran, North Korea, and Syria, including the provision of goods, services, and technology (including the supply of technical assistance and spare parts for items already transferred) and a pledge of no future dealings with these countries in violation of U.S. laws and regulations; 2) accounting to the USG of all transfers in the previous five years of any good, service, or technology to Iran, North Korea, and Syria; 3) a commitment to comply with all reasonable future requests by the USG relating to the transfer of goods, services, or technology to Iran, North Korea, and Syria in the prior five year period; 4) an acknowledgement that failure to abide by these commitments may result in re-imposition of sanctions. The Department stands ready to work with the ROKG to establish these conditions for Yolin Tech as a prerequisite for terminating sanctions.

16. (S/REL South Korea) Suggested Talking Points

-- We are responding to questions raised in our October 22 meeting in which sanctions against the firm Yolin Technology were notified to the Republic of Korea.

-- The provisions of the Iran, North Korea, and Syria Nonproliferation Act (INKSNA) are global in scope and comprehensive in the range of exports that are covered (missile, chemical, biological, and conventional weapons). This complexity accounts for the delay in determinations under the law.

-- The U.S. determination of sanctions against Yolin Technology derives solely from the May 2006 event and subsequent actions relevant to that event, which we previously raised with your government.

-- The sanctions imposed only apply to Yolin Technology, its successors, subunits, and subsidiaries, not to Korea or Korean authorities, and have no effect on Korean entities that do business with Yolin.

-- Under INKSNA, determination to exempt foreign persons from sanctions may be made if "the government with primary jurisdiction over the person has imposed meaningful penalties on that person on account of the transfer of goods, services, or technology..." covered by the law.

-- There is no definition of meaningful penalties in INKSNA but the Department assesses that penalties should be such that there will be no recurrence of any activity sanctionable under INKSNA.

-- In this case, you reported that you took criminal action against Yolin Tech, convicted the company owner, but suspended the sentence imposed.

-- While we appreciate your government's rapid action in this matter, we also expressed concern regarding the penalty imposed against Yolin Tech and remain concerned that this was not a sufficient deterrent to prevent Yolin Tech from again exporting controlled items to Iran, North Korea or Syria.

-- Early termination of sanctions imposed under INKSNA is possible. The goal of the United States Government in agreeing to a termination of sanctions is to secure concrete assurances that there will be no recurrence of any activity sanctionable under INKSNA.

-- In a recent case, after an extended negotiation directly with a sanctioned entity, the Department established a high standard to justify termination of sanctions that consisted of four elements.

-- First, the firm must cease all dealings with Iran, North Korea, and Syria, including the provision of goods, services, and technology (including the supply of technical assistance and spare parts for items already transferred) and a pledge of no future dealings with these countries in violation of U.S. laws and regulations.

-- Second, the firm must agree to provide an accounting of all transfers in the previous five years of any good, service, or technology to Iran, North Korea, and Syria to the USG.

-- Third, the firm must commit to comply with all reasonable future requests for information from the USG relating to the transfer of goods, services, or technology to Iran, North Korea, and Syria in the prior five year period.

-- Fourth, the firm must acknowledge that failure to abide by these commitments may result in re-imposition of sanctions.

-- In addition, the U.S. would appreciate information on whether Yolin Tech continues to operate as a business. If so, we would appreciate knowing what additional steps the ROKG has taken beyond prosecuting the director of Yolin Tech to ensure that no additional transfers of controlled items occur by Yolin Tech to destinations of proliferation concern.

-- We are ready to work further with you, or, if appropriate,

directly with Yolin Tech, to establish these conditions for Yolin Tech as a prerequisite for terminating sanctions before the two-year period expires.

-- We continue to value our strong and close nonproliferation cooperation.

End Talking Points.
RICE

NNNN

End Cable Text